

CITY OF CHULA VISTA

TOURISM MARKETING DISTRICT

SUMMARY

The City of Chula Vista approved the formation of a Tourism Marketing District (TMD) in July 2009. The TMD proposal originated with the Chula Vista Hotel/Motel Association and is funded by a 2.5 percent assessment on local room rents. The Management District Plan that governs TMD activities specifies the funds are to be spent on operation of the Chula Vista Visitor Information Center, and on advertising and other activities to promote the city as a meeting, event and tourist destination to increase hotel/motel occupancy. The Chula Vista Chamber of Commerce administers the TMD.

In response to a citizen complaint, the 2011/2012 San Diego County Grand Jury evaluated TMD operations and finances. Initially, the Grand Jury was concerned that the City had not established sufficient oversight of TMD operations. There was no contract between the City and the Chamber, no requirement for an independent audit, no measurable performance objectives, and insufficient hotel/motel representation on the TMD Board. Further, the Grand Jury questioned the TMD accounting practices, and whether some expenses were consistent with the Management District Plan mandate.

Since the Grand Jury began its investigation, the City and the Chamber entered into a formal written agreement. This contract, adopted by the City Council in March 2012, remedies many of the deficiencies the Grand Jury identified. However, there are outstanding issues. The TMD should standardize its accounting practices in accordance with Government Accounting Standards Board rules. The TMD Committee should establish measurable performance goals to ensure funds are spent in accordance with the Management District Plan.

INTRODUCTION

The Grand Jury received a citizen complaint about potential misuse of revenues generated by Chula Vista's Tourism Marketing District. After making initial inquiries, the Grand Jury decided to investigate the TMD and its relationship with the City of Chula Vista.

PROCEDURE

The Grand Jury interviewed representatives of Chula Vista city government and TMD members, and examined TMD and Visitor Information Center financial statements. The Grand Jury also reviewed reports to and minutes of Chula Vista City Council meetings where the TMD was on the agenda. Finally, the Grand Jury read meeting minutes for the TMD Board of Directors and the Chula Vista Hotel/Motel Association.

DISCUSSION

Historically, the City of Chula Vista budgeted an annual grant of around \$150,000-\$200,000 to support the Chula Vista Convention and Visitors Bureau (CONVIS – a division of the Chamber). The City also passed to CONVIS a \$45,000 grant from the San Diego Metropolitan Transit System (MTS), which funded the Chula Vista Visitor Information Center. The City ended the general fund grant in March 2008 due to declining revenues, and the Chamber assumed responsibility for funding CONVIS. The Hotel/Motel Association of Chula Vista (part of the Chamber) then proposed a Tourism Marketing District to be funded with a 2.5 percent assessment on hotel/motel room rents.¹

TMDs are authorized by the California Streets and Highways Code (section 36600 et seq). They may be operated by a private non-profit organization under contract with a city. The law requires annual reports to the City showing proposed activities and budget for the coming year.

The City Council approved the TMD and the Management District Plan that governs its activities in July 2009. The Chamber administers the TMD, with their Chief Executive Officer responsible for day-to-day operations. The City collects the 2.5 percent TMD assessment from the hotels/motels and sends a check to the Chamber. The revenues support the Visitor Information Center as well as sales and marketing programs to promote the city as a tourist, meeting and event destination to improve hotel/motel occupancy.

The City did not have a contract with the Chamber covering the TMD until March 2012. Consequently, the only accountability in the first two years was the annual report to the City Council. In addition, the TMD gives regular status reports on their budget and marketing efforts to their Board and that of the Hotel/Motel Association.

As the TMD was preparing its 2010-2011 annual report to the City, concerns were raised about the lack of a formal written contract governing TMD activities. During Fall 2011, city staff worked with the TMD Board to develop such an agreement, which the City Council approved in March 2012. That agreement addresses many of the issues the Grand Jury identified. However, measurable performance objectives still have to be developed and there are questions remaining about TMD spending and activities that do not appear to be consistent with the Management District Plan.

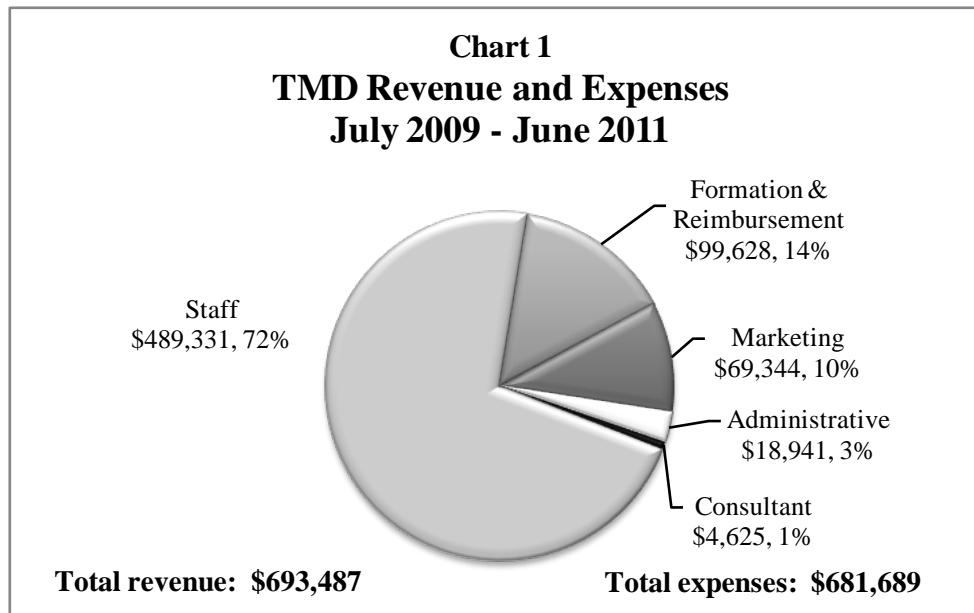
The March 2012 agreement requires annual independent audits beginning with the 2011-2012 fiscal year. In the absence of audit reports for the previous two fiscal years, the Grand Jury examined TMD financial statements.² From its formation in July 2009

¹ This is in addition to the existing 10 percent Transient Occupancy Tax on room rent, which goes to the city's general fund.

² Some TMD financial statements examined accounted for revenues and expenses on a cash basis (i.e., assessments received from the City before the June 30 end of the fiscal year) and some were on an accrual

through June 30, 2011, TMD income from the assessment was \$693,487. During that period, the TMD spent \$681,869 as follows:

- \$489,331 (72 percent) for staff expenses;
- \$99,628 (15 percent) to recoup legal expenses to form the TMD (\$26,000) and to partially reimburse the Chamber for Visitor Information Center operating costs from January 2008, when City funding ended, through June 2009, when the TMD was established (see further discussion, below);
- \$69,345 (10 percent) for marketing;
- \$18,941 (3 percent) in administrative expenses (janitorial services at the Visitor Information Center, outside bookkeeping, and office supplies); and
- \$4,625 (1 percent) for consulting services.



For the first two years, the Chamber Executive Committee also served as the TMD Board. This resulted in some blurring of responsibility and accountability, which was noticeable in spending, advertising and operational decisions.

The Management District Plan specifies that TMD services:

...are tailored not to serve the general public, but rather to serve the specific lodging businesses within the District, e.g., the proposed activities are specifically

basis (included the June assessment, which was not received until July). The Grand Jury based its evaluation on the cash accounting.

targeted to increase room nights for assessed lodging businesses..., and are narrowly tailored.

At the May 2009 City Council meeting where the TMD was first proposed, a representative of the Hotel Motel Association told the Council that Chula Vista's primary tourism markets are Los Angeles, Arizona and Nevada. Most of the TMD marketing efforts to date have promoted spending locally in two local publications – *The Star News* and *My Hometown Chula Vista*. The Grand Jury does not believe these advertisements are narrowly tailored to increase lodging occupancy.

Another spending issue relates to the formation and reimbursement expenses TMD pays the Chamber to cover legal fees and the cost of operating the Visitor Information Center from January 2008 through June 2009. These total \$219,000, and the TMD budgeted \$49,628 in 2009-2010, and plans to give the Chamber \$50,000 in each succeeding year until fully reimbursed. The Grand Jury could find no record of the City Council discussing this reimbursement during subsequent budget approval, nor was any breakdown of the costs included in the \$219,000 in any TMD financial report.

The TMD Board approved the formation and reimbursement budget at their January 6, 2010 meeting – six months after the City Council approved the TMD and its proposed first year budget (which included a single line item of \$50,000 titled “Repayment of Formation Expense”). At least one TMD Board member expressed concern about a possible conflict of interest because the people voting represented both the TMD and the Chamber.

Other TMD financial issues regarding reimbursement for the Visitor Information Center costs the Grand Jury identified are:

- The Visitor Information Center is funded entirely by the TMD. Their financial reports supporting reimbursement include only expenses, and do not show any revenue from sales.
- The Visitor Information Center expense report for January 2008 – June 2009 shows \$167,043, yet the TMD Board voted to reimburse the Chamber \$219,000 for that period (including \$26,000 in legal fees).
- Nine percent of the Visitor Information Center expenses are for employee “auto allowance” and “phone allowance” (\$14,260 and \$1,080, respectively). There is no discussion of why these expenses are necessary, to whom they were paid, or how they were arrived at.
- As a new program, the TMD hired staff, but the TMD Board never discussed what expertise should be sought, nor did they approve the payroll costs and subsequent pay raises. Also, TMD staff is also shown as Chamber staff on the Chamber's web site.

- There are two accounting reports for operation of the Visitor Information Center – one for the TMD and one for CONVIS. These should be consolidated.

The March 2012 agreement between the city and the Chamber requires a new TMD Committee with eight hotel/motel owners or operators (elected by representatives of all the Chula Vista hotels/motels) and seven Chamber Executive Committee members. This newly constituted TMD Committee will be the primary decisionmaking body for TMD activities and finances; they need to ensure that programs and finances are targeted to TMD goals and they should develop performance measures to ensure progress in meeting those goals.

FACTS AND FINDINGS

Fact: The Hotel/Motel Association of Chula Vista (part of the Chamber) proposed a Tourism Marketing District to be funded with a 2.5 percent assessment on hotel/motel room rents.

Fact: TMD activities are governed by a Management District Plan.

Fact: The Management District Plan specifies that TMD services must be narrowly targeted to increase room nights for assessed hotel/motels.

Fact: TMD advertising in the first two years was primarily in local periodicals and featured local dining, shopping and lodging options.

Finding 01: Many TMD activities are not in compliance with the Management District Plan.

Fact: There has not been a clear division of funding and responsibility between the Chamber, CONVIS and TMD.

Fact: TMD staff members are shown as part of the Chamber Team on the Chamber Web site.

Fact: Neither the staff positions nor their salaries and benefits were ever approved by the TMD Board.

Fact: The TMD is reimbursing the Chamber for costs of operating the Visitor Information Center from January 2008 through June 2009.

Fact: Neither the reimbursement itself nor its component costs were approved by the City Council.

Finding 02: The blurring of accountability and responsibility makes it difficult to determine how staff and funding are allocated among the Chamber, TMD and CONVIS.
Fact: Some TMD financial statements are prepared using cash accounting and some use accrual accounting.

Finding 03: The TMD's varied reporting of its revenue is confusing to observers.

RECOMMENDATIONS

The 2011/2012 San Diego County Grand Jury recommends the City Manager of the City of Chula Vista and the Mayor and City Council of the City of Chula Vista:

12-36: Closely monitor implementation of the March 2012 contract between the City and Chamber for TMD operations and the independent audit it requires to ensure the finances and activities are targeted to the purposes required by the Management District Plan.

The 2011/2012 San Diego County Grand Jury recommends the Chula Vista Tourism Marketing District Committee:

12-37: Require the TMD staff to standardize its accounting methods in accordance with Governmental Accounting Standards Board rules.

12-38: Require the TMD to provide an itemized accounting for the \$219,000 reimbursement expense (in the Visitor Information Center expense report for January 2008 – June 2009) and present it to the City Council for formal approval.

12-39: Establish goals and performance measures consistent with the Management District Plan.

12-40: Adopt written personnel policies and procedures, including performance evaluations and salary review.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
Chula Vista City Manager	12-36	8/21/12
Chula Vista Mayor	12-36	8/21/12
Chula Vista City Council	12-36	8/21/12
Chula Vista Tourism Marketing District Committee	12-37 through 12-40	8/21/12

Filed: May 23, 2012